Senate File 351 - Introduced

SENATE FILE 351
BY CARLIN

A BILL FOR

An Act establishing a surviving spouse property tax deferral program for certain persons who have attained the age of sixty-five, applying income limitations, providing a penalty, making appropriations, and including applicability provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. **430.1 Intent — short title — definitions.**

1. Due to the financial circumstances of elderly, low-income, surviving spouses, it is the intent of the general assembly to stabilize tax burdens on homestead property owned by a qualifying surviving spouse who has reached the age of sixty-five through a deferral of certain property taxes.

2. This chapter may be cited as the *"Surviving Spouse Property Tax Deferral Program"*.

3. As used in this chapter, unless the context otherwise requires:

a. "Claimant" means a surviving spouse who files a claim for a property tax deferral under this chapter who has attained the age of sixty-five years on or before December 31 of the base year, and who is domiciled in this state at the time the claim is filed.

b. "Department" means the department of revenue.

c. "Homestead" means the same as defined in section 425.11.

d. "Household", *"household income"*, and *"income"* mean the same as defined in section 425.17.

e. "Own" or *"owned"* means owned by an owner as defined in section 425.11.

f. "Surviving spouse" means the legally recognized surviving wife or husband of the decedent.

Sec. 2. NEW SECTION. **430.2 Claimant and filing requirements.**

1. Claimants who own their homestead and who meet all of the following criteria are eligible to receive a deferral of property taxes levied against the homestead:

a. The property must be owned and occupied as a homestead by the claimant who is a surviving spouse who has not remarried.

b. The total household income of the claimant for the year preceding the year of the initial application does not exceed sixty thousand dollars.

c. The homestead must have been owned and occupied as the homestead of the claimant or the claimant's deceased spouse for at least fifteen years prior to the year the initial application is filed.

d. There are no state or federal tax liens or judgment liens on the homestead.

e. The total unpaid balances of debts secured by mortgages and other liens on the property, including unpaid and delinquent special assessments and interest and any delinquent property taxes, penalties, and interest, do not exceed seventy-five percent of the actual value of the property.

2. The claim shall be filed with the department between January 1 and February 15 immediately following the close of the assessment year for which property taxes due and payable will be calculated. However, in case of sickness, absence, or other disability of the claimant, or if good cause exists, the department may extend the time for filing a claim through June 30 of the same calendar year.

3. Every claimant shall give the department in support of the claim reasonable proof of all of the following:

a. Name, age, address, and social security or tax identification number.

b. The initial year of ownership of the homestead.

c. Size and nature of the property claimed as the homestead, including information on any mortgage loans or other amounts secured by mortgages or other liens against the property.

d. Household income.

e. Any additional proof necessary to support a claim as prescribed by rules of the department.

4. The application must state all of the following:

a. Program participation is voluntary.

b. The deferred amount depends directly on the claimant's household income and that program participation includes authorization for the annual deferred amount.

5. The department shall approve all initial applications that qualify under this chapter and shall notify approved

claimants on or before May 1 or on or before a date established by the department for those applications filed after February 15 for which good cause exists under subsection 5. The department may investigate the facts or require confirmation in regard to an application. The approved deferral shall be valid for future years unless suspended under section 430.3 or terminated under section 430.7.

6. The department shall record or file a notice of qualification for deferral, including the name of the claimant and a legal description of the property, in the office of the county recorder for the county where the qualifying property is located. The notice must state that it serves as a notice of lien and that it includes deferrals under this chapter for future years. The homeowner shall pay the recording or filing fees for the notice.

Sec. 3. NEW SECTION. **430.3 Excess-income certification by claimant —— resumption.**

1. A claimant whose initial application has been approved under section 430.2 shall notify the department in writing by June 30 if the claimant's household income for the preceding calendar year exceeded sixty thousand dollars. The certification must state the claimant's total household income for the previous calendar year. Tax shall not be deferred relative to the appropriate assessment year for any homeowner whose total household income for the assessment year exceeds sixty thousand dollars. Tax shall not be deferred in any year in which the homeowner does not meet the program qualifications in this chapter. Property taxes shall not be deferred under this chapter in any year following the year in which a program participant filed or should have filed an excess-income certification under this section, unless the participant has filed a resumption of eligibility certification as described in subsection 2.

2. A claimant who has previously filed an excess-income certification under subsection 1 may resume program

participation if the claimant's household income for a subsequent year is sixty thousand dollars or less. If the claimant chooses to resume program participation, the claimant must notify the department in writing by June 30 of the year following a calendar year in which the claimant's household income is sixty thousand dollars or less. The certification must state the claimant's total household income for the previous calendar year. Once a taxpayer resumes participation in the program under this subsection, participation will continue until the taxpayer files a subsequent excess-income certification under subsection 1 or until the claimant terminates participation or is otherwise ineligible for the program.

3. The department shall assess a penalty equal to twenty percent of the property taxes improperly deferred in the case of a false application, a false certification, or in the case of a required excess-income certification which was not filed as of the applicable due date.

4. The department may conduct investigations related to initial applications and excess-income certifications required under this chapter within the period ending four years from the date of filing of the application or certification.

Sec. 4. NEW SECTION. **430.4 Deferral amount and annual notice.**

1. *a.* The department shall determine each qualifying claimant's annual maximum property tax amount following approval of the claimant's initial application and following the receipt of a resumption of eligibility certification under section 430.3, if applicable. The annual maximum property tax amount equals three percent of the claimant's total household income for the year preceding either the initial application or the resumption of eligibility certification, as applicable, but not to exceed the amount of property taxes due and payable on the homestead for the year prior to the initial application.

b. Following approval of the initial application, the department shall determine the qualifying claimant's total maximum allowable deferral. The total maximum allowable deferral for all participating years is an amount equal to seventy-five percent of the homestead's actual value, less the balance of any mortgage loans and other amounts secured by liens against the property at the time of application, including any unpaid and delinquent special assessments and interest and any delinquent property taxes, penalties, and interest.

2. On or before June 1 of the year of initial application, the department shall certify for each approved claimant the annual maximum property tax amount and the maximum allowable deferral. On or before June 1 of any year in which a claimant files a resumption of eligibility certification, the department shall certify the new annual maximum property tax amount to be used in calculating the deferral for subsequent years.

3. When the amount of property tax due and payable in an applicable fiscal year has been determined, the department shall calculate each claimant's deferred property tax amount. The deferred property tax amount is equal to the difference between the total amount of property taxes due and payable on the homestead and the annual maximum property tax amount, subject to the claimant's total maximum allowable deferral under subsection 1, paragraph *"b"*.

4. Annually, the department shall notify in writing each applicable county treasurer and each claimant who is participating in the program of the amount of deferred taxes due and payable in the subsequent fiscal year and the total cumulative deferred taxes and accrued interest on the claimant's property as of that date.

Sec. 5. NEW SECTION. **430.5 Payment of delinquent taxes and special assessments.**

Upon approval of a claimant's initial application, the department shall pay to the treasurer of the county where the property is located the amount of any delinquent property taxes, penalties, interest, and delinquent special assessments and interest on the property which is the subject of the application.

Sec. 6. NEW SECTION. **430.6 Lien.**

1. Payment by the state to the county treasurer of property taxes, penalties, interest, or special assessments and interest deferred under this chapter is deemed a loan from the state to the claimant.

2. The department must compute the interest at the rate provided in section 447.1, and maintain records of the total deferred amount and interest for each participant in the program. Interest shall accrue beginning September 1 of the fiscal year for which the taxes are deferred. Any deferral made under this chapter shall not be construed as delinquent property taxes.

3. The lien created for the deferral of property taxes continues to secure payment by the claimant, or by the claimant's successors or assigns, of the amount deferred, including interest, with respect to all years for which amounts are deferred. The lien for deferred taxes and interest has the same priority as any other lien for unpaid property taxes under chapter 445 and the rights of the state under the lien have priority over all subsequent mortgagees, purchasers, or judgment creditors, except that liens, including mortgages, recorded or filed prior to the recording or filing of the notice, have priority over the lien for deferred taxes and interest.

4. The department shall maintain records of the deferred portion and shall list the amount of deferred taxes for the year and the cumulative deferral and interest for all previous years as a lien against the property.

Sec. 7. NEW SECTION. **430.7 Termination of deferral —— payment of deferred taxes.**

1. The deferral of property taxes granted under this chapter terminates when one of the following occurs:

a. The homestead is sold or transferred, or no longer qualifies as a homestead.

b. The death of the claimant.

c. The claimant is no longer unmarried.

d. The claimant notifies the department in writing that the homeowner desires to discontinue the deferral.

2. Participation in the program is not terminated because no deferred property tax amount is determined on the homestead for any given year after the homestead's initial enrollment into the program.

3. Upon the termination of the deferral, the amount of deferred taxes, penalties, interest, and special assessments and interest, plus any unpaid recording or filing fees, becomes due and payable to the department of revenue within one year of termination of the deferral. No additional interest is due on the deferral if timely paid.

4. On receipt of payment, the department shall within ten days notify the county recorder in which the parcel is located, identifying the parcel to which the payment applies and shall remit the recording or filing fees, if applicable. A notice of termination of deferral, containing the legal description and the recording or filing data, shall be prepared and recorded or filed with the county recorder and the department shall mail a copy of the notice of termination to the claimant or property owner, as applicable. The claimant or property owner shall pay the recording or filing fees. Upon recording or filing of the notice of termination of deferral, the notice of qualification for deferral and the lien created by it are discharged. Upon receipt by the department of collected funds in the amount of the deferral, the state's loan to the program participant is deemed paid in full.

Sec. 8. NEW SECTION. **430.8 State reimbursement.**

1. The department shall determine the total current year's deferred amount of property tax under this chapter in each county, and shall report those amounts to the appropriate

county treasurer.

2. The department shall pay the deferred amount of property tax to each county treasurer on or before August 31.

3. The county treasurer shall distribute the funds received from the department to the appropriate taxing entities as if the funds had been collected as a part of the property tax.

4. An amount sufficient to pay the total amount of property taxes deferred, plus any amounts paid under section 430.5, is annually appropriated from the general fund of the state to the department of revenue.

Sec. 9. NEW SECTION. **430.9 Waiver of confidentiality.**

1. A claimant shall expressly waive any right to confidentiality relating to all income tax information obtainable through the department including all information covered by sections 422.20 and 422.72.

2. The department may release information pertaining to a claimant's eligibility or claim for or receipt of the deferral to an employee of the department of inspections and appeals in the employee's official conduct of an audit or investigation.

Sec. 10. NEW SECTION. **430.10 False claim — penalty.**

A person who makes a false affidavit for the purpose of obtaining a deferral provided for in this chapter or who knowingly receives the deferral without being legally entitled to it is guilty of a fraudulent practice.

Sec. 11. NEW SECTION. **430.11 Administration of program.**

To the extent not otherwise contrary to the provisions of this chapter:

1. Section 423.39, subsection 1, shall apply to all notices under this chapter.

2. Any person aggrieved by an act or decision of the director of revenue or the department under this chapter shall have the same rights of appeal and review as provided in section 423.38 and the rules of the department.

3. The department of revenue shall adopt rules pursuant to chapter 17A to administer and interpret this chapter, including

rules to prevent and disallow duplication of benefits and to prevent any unreasonable hardship or advantage to any person.

4. The director of revenue shall provide information about the surviving spouse property tax deferral program and eligibility criteria for the program in an instruction booklet prepared for taxpayers to use in applying for the deferral.

5. The director of revenue shall prescribe the content, format, and manner of all forms and other documents required to be filed under this chapter.

Sec. 12. RETROACTIVE APPLICABILITY. This Act applies retroactively to January 1, 2021, for assessment years beginning on or after that date and to the filing of claims for deferral on or after January 1, 2022.

EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill establishes a surviving spouse property tax deferral program for certain persons who have attained the age of 65.

Under the bill, persons who own their homestead and who meet all of the following criteria are eligible to receive a deferral of property taxes levied against the homestead: (1) the property must be owned and occupied as a homestead by a claimant who is a surviving spouse who has not remarried; (2) the total household income of the claimant does not exceed $60,000; (3) the homestead must have been owned and occupied as the homestead of the claimant or the claimant's deceased spouse for at least 15 years; (4) there are no state or federal tax liens or judgment liens on the homestead; and (5) the total unpaid balances of debts secured by mortgages and other liens on the property do not exceed 75 percent of the actual value of the property.

An initial claim for a deferral must be filed with the department of revenue between January 1 and February 15 immediately following the close of the assessment year for which property taxes due and payable will be calculated. The department of revenue may investigate the facts or require confirmation in regard to an application. The approved deferral is valid for future years unless suspended or terminated as provided in the bill. The department then records or files a notice of qualification for deferral in the office of the county recorder for the county where the qualifying property is located, and that notice must state that it serves as a notice of lien and that it includes deferrals under the program for future years.

A claimant participating in the program may temporarily suspend the deferral if the claimant's household income exceeds $60,000 for one or more years.

The department is required to determine each qualifying claimant's annual maximum property tax amount following approval of the claimant's initial application. The annual maximum property tax amount equals 3 percent of the claimant's total household income for the year preceding either the initial application or the resumption following a temporary suspension, but not to exceed the amount of property taxes due and payable on the homestead for the year prior to the initial application.

When the amount of property tax due and payable in an applicable fiscal year has been determined, the department of revenue is required to calculate each claimant's deferred property tax amount. The deferred property tax amount is equal to the difference between the total amount of property taxes due and payable on the homestead and the annual maximum property tax amount, subject to the claimant's total maximum allowable deferral.

The total maximum allowable deferral for all participating years is an amount equal to 75 percent of the homestead's actual value, less the balance of any mortgage loans and other amounts secured by liens against the property at the time of application, including any unpaid and delinquent special assessments and interest and any delinquent property taxes, penalties, and interest.

Upon approval of a claimant's initial application, the department of revenue pays to the treasurer of the county where the property is located the amount of any delinquent property taxes, penalties, interest, and delinquent special assessments and interest on the property. The department of revenue also pays annually the deferred amount of property tax to each county treasurer on or before August 31. The county treasurer shall distribute the funds received to the appropriate taxing entities as if they had been collected as a part of the property tax. An amount sufficient to pay the total amount of property taxes deferred, plus any amounts of delinquent property taxes, penalties, interest, and delinquent special assessments and interest paid for initial applications, is annually appropriated from the general fund of the state to the department of revenue.

Payment by the state to the county treasurer of property taxes, penalties, interest, or special assessments and interest deferred under the bill is deemed a loan from the state to the claimant. The department must compute the interest at the rate provided in the bill, and maintain records of the total deferred amount and interest for each participant in the program. The lien created for the deferral of property taxes continues to secure payment by the claimant, or by the claimant's successors or assigns, of the amount deferred, including interest, with respect to all years for which amounts are deferred.

The deferral of property taxes granted under the bill terminates when one of the following occurs: (1) the homestead is sold or transferred, or no longer qualifies as a homestead; (2) the death of the claimant; (3) the claimant is no longer unmarried; or (4) the claimant notifies the department in writing that the homeowner desires to discontinue the deferral. Upon the termination of the deferral, the amount of deferred taxes, penalties, interest, and special assessments and interest, plus any unpaid recording or filing fees, becomes due and payable to the department of revenue within one year of termination of the deferral. On receipt of payment, the department shall within 10 days notify the county recorder in which the parcel is located and a notice of termination of deferral, and a notice shall be prepared and recorded or filed with the county recorder. Upon recording or filing of the notice of termination of deferral, the notice of qualification for deferral and the lien created by it are discharged. Upon receipt by the department of collected funds in the amount of the deferral, the state's loan to the program participant is deemed paid in full.

A person who makes a false affidavit for the purpose of obtaining a deferral or who knowingly receives the deferral without being legally entitled to it is guilty of a fraudulent practice.

The bill also establishes requirements for administering the program, including requirements for notices, appeals, and rulemaking of the department.

The bill applies retroactively to January 1, 2021, for assessment years beginning on or after that date and to the filing of claims for deferral on or after January 1, 2022.